IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 580 of 1985

HONOURABLE MR.JUSTICE KS JHAVERI

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USMANBHAI MOHMEDBHAI - Appellant(s)
Versus
MAHARASHTRA STATE TRANSPORT CORPORATION - Defendant(s)

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Appearance :
MR DHARMESH V SHAH for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 25/07/2006

ORAL JUDGMENT

1. Though served, none appears for the respondent. Since the matter is very old the same is taken up for hearing.

2. This appeal is at the instance of the original claimant for enhancement of compensation as awarded by the Motor Accident Claims Tribunal (Aux.), Baroda by judgement and award dated 25th April 1984, in Motor Accident Claim Application No.457/1982.

3. The case of the original claimant was that on 10.5.1981 he was travelling in Bus bearing No.MTB 5569 and because of rash and negligent driving of the said bus there was an accident as a result of which he sustained serious injuries. The claimant therefore

filed application claiming compensation in the sum of Rs.40000/-. The Tribunal after hearing the parties awarded a sum of Rs.19200/- and therefore the present appeal has been filed for enhancement of compensation.

4. Learned Advocate for the appellant submitted that the Tribunal has not properly appreciated the injuries sustained by the claimant and the award was not in accordance with the economical loss suffered by the claimant. He further submitted that the disability suffered by the claimant would cause difficulties in future earning capacity. He further submitted that the future loss of income should have been considered in accordance with the disability certificate.

5. At the outset it is required to be noted that looking to the overall injury and period of treatment the Tribunal has awarded a sum of Rs.10000/- for pain, suffering and loss of amenities of life which is quite reasonable.

6. The claimant was earning Rs.1200/- per month and on account of injury he could not attend duties for about three months and therefore the Tribunal has rightly awarded Rs.3600/-. Nothing is pointed out to show that the Tribunal has committed any error in not awarding any amount higher than the said sum.

7. As regards the question of future prospects is

concerned, the same was not considered by the Tribunal. It is an admitted position that there is a disability to the extent of 10%. In that view of the matter and in view of the decision of the Apex Court in the case of U.P. State Road Transport Corporation and Ors. Vs. Trilok Chandra & Ors, reported in 1996(3) GLR 136 the future loss could be calculated at Rs.180/-. Looking to the age of the claimant which is 50, the multiplier of 10 is just and property. In view of these calculations the claimant would be entitled to Rs.21600/-.

8. In the premises aforesaid, the appeal is partly allowed. The claimant would be entitled to an additional amount of Rs.21600/- along with interest at then rate of 6% per annum from the date of application till realisation. The award of the Tribunal is modified accordingly. No order as to costs.

[K.S. JHAVERI,J.]

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